

MONTGOMERY COUNTY, MARYLAND

# OFFICE OF CONSUMER PROTECTION annual report FY2006



*"Your Office's outstanding service is one of the reasons why Montgomery County is such a great place to live! Thanks again for your efficient service!"*

*"Your office provides invaluable services to our community. Thank you for all your help!"*



***M**ontgomery County enjoys a thriving marketplace where the majority of businesses are honest and forthright in their business practices. However, when we encounter deceptive trade practices, we are fortunate to have a nationally recognized consumer protection office to level the playing field and ensure that a fair marketplace for consumers and businesses exists.*

*I am pleased that this office has been re-established as an independent Office of Consumer Protection (OCP). Protecting consumers from unscrupulous businesses is a top priority of mine and by creating a separate consumer protection office, we have given these issues greater visibility which will help us in the fight against unfair business practices.*

*I commend the dedicated and knowledgeable staff of the Office of Consumer Protection for investigating and resolving consumer complaints; being vigilant in enforcing the consumer protection laws; working to pass new consumer laws when needed; and educating both the consumers and merchants of this county on their rights and responsibilities. OCP's work contributes to our quality of life in Montgomery County and I extend my thanks for their service to the public.*

*Douglas M. Duncan*

*Montgomery County Executive*

## Grand Re-Opening

Fiscal Year 2006 marked the grand “re-opening” of Montgomery County’s **Office of Consumer Protection**.

Effective January 22, 2006, legislation enacted by the County Council and the County Executive

reorganized the Division of Consumer Affairs into the **Office of Consumer Protection**.

By taking the division out of a housing department

and creating a new agency on a level with the police, fire, and homeland security offices in the public safety sector, the Council and Executive recognized the vital and increasing role of consumer protection in the County. The second major step taken by the County Council and County Executive to reinforce Montgomery County’s commitment to protecting the marketplace from unfair and deceptive practices was to update the County’s 35 year old consumer protection law. Bill #3-06, enacted in May 2006, revised Montgomery County’s 1971 “Consumer Protection Act,” which provided a strong foundation for resolving thousands of consumer complaints, initiating law enforcement action against violators, educating consumers and businesses, licensing certain businesses, and reaching out to vulnerable consumers. However, changes to the law were needed to improve enforcement procedures, better define deceptive trade practices, and correct outdated

provisions. A major provision of the new law created an administrative hearing process so that violations could be adjudicated more efficiently.

Today, the protection of consumers and reputable

businesses in Montgomery County is as challenging as it was in 1971. However, the creation of a newly independent **Office of Consumer Protection** and the passage of comprehensive

revisions to our law provide new tools and resources to fulfill our agency’s mission.



## Mission Statement

*The mission of the Office of Consumer Protection is to enforce consumer protection laws prohibiting unfair and deceptive business acts or practices in order to ensure a fair marketplace for consumers and businesses.*

*Our activities include complaint resolution, law enforcement, education, legislation, advocacy, licensing, and outreach. Our real commitment is reflected in the caliber of the staff. Laws are only as good as those who enforce them. Proud to be dedicated public servants, not government bureaucrats, our staff is here to help.*

In Fiscal Year 2006, OCP received over 2,000 written complaints and more than 26,000 telephone inquiries regarding unfair and deceptive trade practices in automotive sales/service, new home construction, home improvement, predatory financial practices, credit and collection practices, telemarketing, advertising, and retail sales. These included 4,000 calls seeking information on the number of complaints filed against merchants. This information is now available online through OCP’s webpage.

In addition to investigating and resolving complaints, OCP executes Settlement Agreements, issues civil citations and subpoenas, and initiates legal action through the County Attorney. OCP also licenses new home builders, automotive repair & towing firms, appliance repair firms, and second-hand personal property dealers. OCP personnel serve as staff for the Commission on Common Ownership Communities and the Builder’s Board of Registration, and OCP works closely with the Advisory Committee on Consumer Protection.

## Complaint Resolution

Written complaints are handled by a skilled staff, including six attorneys and two certified automotive technicians, versed in county, state, and federal consumer protection laws.

The following are just a sampling of cases handled by OCP in FY 2006:



**Getting ETCHED.** Getting “ETCHED” became a new term at OCP, used to describe a situation in which a merchant engages in an unfair or deceptive practice by charging an unconscionably high price for a service. A consumer filed a complaint against a car dealership after realizing that the dealership charged a hundred times the going rate for a service listed on the sales contract as “ETCH.” The consumer purchased a used vehicle for \$18,500 and the dealership charged an additional \$11,500 to etch the vehicle identification number into the windshield as a theft protection deterrent. This service typically only costs about \$150. Upon receipt of the complaint from OCP, the dealership refunded the \$11,500, claiming that the problem was caused by the improper actions of its finance person. OCP staff visited the dealership to review all of the deal files handled by the same finance person to ensure that no other consumers were overcharged. OCP Staff also confirmed that the finance person involved no longer works at the dealership.

**Lost at Sea.** Hundreds of consumers paid \$80 to \$1000 to a Derwood, MD, shipping firm to have their household goods and vehicles shipped to South and Central American countries. Not only did this merchant fail to deliver the goods to their destinations, but several of the consumers’ vehicles were towed away when the merchant left them parked illegally and many boxes of household goods were lost. OCP staff, led by our newly hired Spanish speaking Investigator, painstakingly

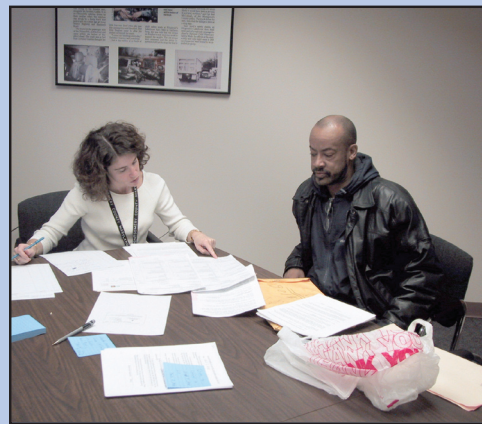
reviewed documentation and negotiated with third parties to return the towed vehicles and to track the whereabouts of the missing boxes. OCP staff contacted local agents and agents at the ports of ten foreign countries in order to locate and identify missing property and make arrangements for consumers to reclaim their belongings. OCP also networked with media outlets in the Latino Community to help educate and protect consumers. In addition, OCP is working with the Office of the State’s Attorney to review the case for possible criminal prosecution.

#### ***When New is Really Old.***

A consumer purchased what he thought was a new cell phone from a store in Silver Spring. It was packaged in a box and came with warranty documents. When the phone malfunctioned several months later and the consumer returned the phone to the manufacturer for a “warranty repair,” he was shocked to hear from the manufacturer that the phone had previously been repaired, was currently out of warranty, and no further repairs would be made. OCP staff conducted a thorough investigation, including issuing a subpoena for all documents related to this transaction, and found that the phone had been “reconditioned” by a third party and mistakenly sold as new. The retail store provided a full refund to the consumer, substantiated that

this was an isolated case in which the retail store was also misled, and initiated steps to ensure that used merchandise is not represented as new merchandise.

***Previously Wrecked Used Vehicle.*** A consumer paid \$31,500 for a used vehicle from a Germantown dealership and was assured that the car had not been in any accidents. In fact, the consumer later learned that the vehicle had been “totaled” by an insurance company in a previous accident in another state. OCP investigated and confirmed that the dealership was not aware of this accident because the vehicle history report obtained



by the dealership did not disclose the prior accident. The dealership agreed to refund the purchase price of the car but was unable to refund the sales tax that had already been paid to the State of Maryland. OCP then contacted State government representatives and was successful in getting the state to refund \$1,489 in sales tax to the consumer.

#### ***Going Out for In-take.***

Elderly consumers living in a Rockville assisted living facility complained that refunds due from the in-house food provider were not given after the provider, who was paid in advance to provide food service, went out of business. OCP staff visited the consumers to receive their complaints after it was evident that they

were not going to be able to write or visit OCP to file complaints because of their disabilities. After investigating the situation, OCP arranged for refunds to be provided to these consumers.

***Sloppy Scanning.*** A Gaithersburg consumer filed a complaint against a national retail grocery store alleging that the cashier, after “scanning” the item, charged more for the product than the displayed price. OCP investigated the matter and obtained documentation from the merchant confirming this discrepancy. The merchant agreed to refund the overcharges for this consumer, and all other consumers purchasing this product, to the consumer’s favorite charity. In addition, the merchant initiated procedures to ensure that scanned prices are accurate.

## Legal Action

***\$1 million Land/Home Sales Scheme*** – In 2004 OCP began investigating complaints against an unlicensed developer/builder who deceptively induced consumers to purchase land he did not own and to build houses for which he was not licensed. OCP documented over \$1 million dollars in deposits lost by 15 consumers thorough this elaborate scheme. This situation was reported on the front page of the *Washington Post*. The results of this extensive investigation were reported to the Criminal Investigations Division of the Attorney General’s Office, and during FY 2006, OCP provided information to the Federal Bureau of Investigation. OCP

Investigators also assisted the Office of the State’s Attorney in bringing criminal charges against this individual regarding subsequent activity as an unlicensed home improvement contractor.

***Contractor Crackdown*** — The campaign announced in FY 2006 by County Executive Douglas M. Duncan to focus on unlicensed home improvement contractors resulted in OCP initiating criminal charges against 18 unlicensed contractors who took money from 25 consumers. These cases have involved tens of thousands of dollars of loss to consumers. OCP coordinated efforts with the Office of the State’s Attorney to prosecute these cases, and staff have gone the extra mile in driving elderly victims to court so that judges can hear the extent to which consumers have been harmed.

***Unlicensed New Home Builder*** – A Burtonsville consumer entered into a contract for a modular home. The contractor was not licensed as a new home builder in Montgomery County and failed to complete the work. OCP investigated this matter and issued civil citations to the builder for violating licensing and consumer protection laws. A trial was held in District Court and the Judge issued an Order of Restitution for the contractor to refund \$25,000 to the consumer.

***Violation-at-Home*** – For several years OCP staff and volunteers have been reviewing advertisements in local newspapers to identify

work-at-home advertisers that violate consumer protection laws prohibiting firms from requiring consumers to pay money upfront for employment. Recently, OCP entered into a Settlement Agreement with an out-of-state company that advertised locally and maintained a webpage offering a variety of jobs, such as stuffing envelopes and being a mystery shopper. This firm required consumers to pay \$30 - \$45 in “registration fees” upfront. The company agreed to contact over 50 consumers in Maryland, refund their registration payments, and cease taking such payments from Maryland consumers.

## Legislative Action

Each year OCP staff travel to Annapolis to testify on behalf of consumers. In Fiscal Year 2006 OCP testified or provided written testimony to Senate and House Committees of the Maryland General Assembly on seven bills affecting the rights



or remedies of consumers. OCP advocated for consumer protections in bills concerning debt management/credit counseling companies, moving companies, consumer rebates, unlicensed home improvement



contractors, financing of automobile sales, price gouging during a state of emergency, and protection of cell phone numbers. OCP also worked “behind the scenes” through our Office of Intergovernmental Relations to articulate the views of consumers.

## News Events

OCP participated in four press conferences with the County Executive, County Council Members, and State elected officials regarding Price Gouging, Unlicensed Home Improvement Contractors, National Consumer Protection Week, and Electricity Rates. In FY 2006, OCP also issued 11 news releases on such issues as: our annual report on prepaid gift cards; OCP’s independent office status, and the new initiative making Spanish speaking volunteers available to assist with complaint handling. Eleven Public Service Announcements were produced which were heard on a variety of television and radio stations.

*The Washington Post* featured a story about the work of OCP on the front page of its *Montgomery Extra* section titled “Been Scammed? They Fight For You – Calling in the Pros to Battle Swindlers.” This full length article included the plight of a Silver Spring woman who paid \$75,000 to an unlicensed contractor to put an addition on her house, only to have the contractor disappear after causing structural and electrical problems and leaving the house exposed to the outdoors. An OCP investigator, who was profiled in the article, filed criminal charges against the contractor for working without

a license, abandoning the property, and felony theft. The contractor pleaded guilty to the charges and was ordered to repay the consumer.

OCP’s third annual Gift Card Report received recognition in *The Washington Post*, *USA Today*, “Good Morning America,” and a number of other media outlets and news BLOGS. Citing information from some of these press reports, Joe Barton (R - Texas), Chair of the U.S. House Committee on Energy and Commerce,



and Representative Charles Bass (R - N.H.) asked the Federal Trade Commission (FTC), in December 2005, to look into how gift cards are sold, marketed, and used, and to report its findings to the Committee on Energy and Commerce. The FTC’s response cited OCP’s report and specifically noted our findings about companies that fail to make pre-purchase disclosure of gift card expiration dates or fees. Darden Restaurants (Red Lobster, Olive Garden and others), one of the companies cited in our report for failing

to disclose, has since revealed in a filing with the Securities and Exchange Commission that the FTC is pursuing legal action over its gift card policies and is seeking tens of millions of dollars in penalties and consumer restitution.

OCP staff frequently appear on television and radio news programs. During Fiscal Year 2006 OCP staff participated in “live” and taped interviews on 32 local television news programs and eight local radio news programs. OCP produced six “Consumer Corner” radio shows and appeared on five “Metro Talk” shows, a Sunday morning public affairs program. OCP staff also appeared on seven “County Comments” cable television shows and on a “Law School for the Public” cable television show. A half hour cable TV documentary about OCP titled “Where Does It Go? Your Tax Dollars At Work” was produced and featured OCP staff describing the services we provide.

## Community Outreach

In February 2006, OCP hired a former Legal Aid attorney to serve as our first Spanish speaking Investigator. A team of Spanish speaking volunteers were also recruited and trained to assist in handling complaints within the Hispanic/Latino community. This team participated in the Federal Trade Commission’s “Hispanic Multi Media Surf Day,” where advertisements from newspapers and television were reviewed to identify those that deceptively market products or services to Spanish-speaking consumers. OCP developed a bi-lingual complaint form

and made it available on our webpage. Our bi-lingual Investigator has also been working with the Tess Center to receive and investigate complaints from Spanish-speaking consumers. OCP took the lead in



establishing a Montgomery County Coalition for Financial Literacy in an effort to coordinate and provide financial education skills to county residents.

OCP initiated a “Consumer Tip of the Week” feature on our webpage, [www.montgomerycountymd.gov/consumer](http://www.montgomerycountymd.gov/consumer). In FY 2006, OCP staff gave 44 speeches to community groups, reaching over 5905 citizens, an increase of 642 from last year.

OCP began outreach this year to small businesses in Montgomery County, which included a presentation on “Scams Targeting Small Businesses” at an event held for potential small business owners in the County at the Charles Gilchrist Center, along with presentations to the Long Branch Business League and Takoma Park Enterprise Zone. OCP also sent an alert to the County’s contact list of small businesses regarding

the purchase and/or lease of credit card terminals. OCP also staffed tables at a variety of local events such as Diversity Day and the Montgomery County Fair in order to reach consumers who would not necessarily know how to contact us otherwise.

Business Licensing

OCP’s licensing unit licenses new home builders, auto repair and towing shops, appliance repair firms, and second-hand personal property dealers. OCP conducted a “sweep” in an industrial section of Montgomery County to identify unlicensed auto repair shops and ensure that they became licensed. These licensing efforts help to ensure that merchants comply with the law and provide OCP Investigators with information helpful to resolving complaints.

Building Contractor’s Licenses.....544

Motor Vehicle Repair .....938

Radio/TV and Small Appliances..... 179

Secondhand Property Dealer ..... 111

Commission on

Common Ownership Communities (CCOC)

This 15 member Commission is an alternative dispute resolution mechanism designed to hear and resolve disputes between homeowner and condominium associations and their owners and residents. The Commissioners are appointed by the County Executive and approved by the County Council; volunteer local attorneys chair the hearing panels and write the decisions. Over 800 different common ownership community associations, covering 116,000 separate homes are now registered with the County. OCP serves as staff to the Commission and coordinates the mediation of disputes.

The CCOC had its busiest year ever in FY 2006, receiving 100 written complaints from both homeowners and community associations and responding to 1,163 requests by telephone for advice and information. In addition to its monthly meetings, the CCOC held 17 public hearings on disputes and conducted a successful annual Open House for boards and residents, with over 100 persons attending.

In order to help the boards of directors perform their duties, CCOC drafted a manual of operations for homeowner associations, which is posted on its website, [www.montgomerycountymd.gov/ccoc](http://www.montgomerycountymd.gov/ccoc). CCOC also posts copies of its recent decisions and orders online.

The Commission successfully

advocated for state legislation which allows homeowner associations to be represented by their own officers/directors rather than hiring attorneys at hearings.

## Our Staff

OCP's staff of twenty-two includes: eleven Investigators, two Administrators, two Program Specialists, two Managers, four Administrative Support positions, and one Acting Director. Of the current staff, six are attorneys, two are certified automotive technicians, and two are fluent in Spanish. OCP also has a special relationship with a volunteer staff of thirty professionals who, in FY 2006, contributed a total of 3,282 hours assisting Investigators.

Staff serve as the "consumer voice" on a number of local and state boards and commissions. In addition, OCP is proud to have earned a national reputation. OCP staff frequently appear on local and national television and radio stations, in newspapers, and in magazines.

### *Office of Consumer Protection*

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### *Staff:*

Richard Alexander, *Investigator*  
Lorena Bailey, *Investigator*  
Lisa Brennan, *Investigator*  
Peggie Broberg, *Administrative Aide*  
Marsha Carter, *Financial and Human Resources Manager*  
John Creel, *Investigator*  
Peter Drymalski, *Investigator*  
Virginia Foronda, *Program Specialist*  
Eric Friedman, *Acting Director*  
Evan Johnson, *Administrator*  
John Lewis, *Investigator*  
Sharon Margolis, *Investigator*  
Joy Matthews, *Investigator*  
Nellie Miller, *Investigator*  
Doug Numbers, *Investigator*  
Pam Prather, *Program Specialist*  
Sue Rogan, *Communications Manager*  
Kathy Schaeffen, *Administrative Aide*  
Linda Silverman, *Administrative Aide*  
Frederick Titus, *Investigator*  
Ralph Vines, *Administrator*  
Janet Wenk, *Administrative Aide*